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| 09/854,325      | 05/12/2001  | Nemo Semret          | 61624-04980         | 7653             |

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| EXAMINER |
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NGUYEN, NGA B

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| ART UNIT | PAPER NUMBER |
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3628

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/854,325

Applicant(s)

SEMRET ET AL.

Examiner

Nga B. Nguyen

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 45-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This Office Action is the answer to the Preliminary Amendment filed on May 12, 2001, which paper has been placed of record in the file.
2. Claims 1-44 have been canceled. Claims 45-66 are pending in this application.

***Specification***

3. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code (see page 1, line 18). Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 45-55, 57-59 and 62-66 are rejected under 35 U.S.C. 102(e) as being anticipated by Roth et al (hereinafter Roth), U.S. Patent No. 6,285,987).

Regarding to claim 45, Roth discloses a method to allocate a network resource to a buyer agent operating on a buyer server, the method including:

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receiving a data message from the buyer agent, the data message associating a bid with the network resource (figure 1 and column 3, lines 50-65; the advertising web server system 16 receives bids from bidding agents 30A to 30Z; column 4, lines 7-15; the network resource is an advertising space on a web page), and

based on the bid and an allocation rule, allocating the network resource to the buyer agent (column 4, line 63-column 5, line 63; the bid selection logic 16C selects an advertisement for displaying in a web page based on the amount of bid and various parameters; when an advertisement associated with an advertiser is selected for displaying, the advertising space thus allocated to the advertiser associated with the bidding agent).

Regarding to claim 46, Roth discloses receiving a data message at a resource agent operating on a resource server (column 3, lines 50-65; the advertising web server system 16 receives bids from bidding agents 30A to 30Z).

Regarding to claim 47, Roth discloses the network resource includes at least one of: a bandwidth, a buffer space, and a processing time (column 4, lines 7-15; a buffer space in this case; the network resource is an advertising space on a web page).

Regarding to claims 48-49, Roth discloses the buyer agent is associated with a user (column 4, lines 16-25; each bidding agent is associated with an advertiser); and the buyer agent operates on a buyer server located remotely from a computer associated with the user (figure 1 and column 6, lines 20-32; bid input server 18); the data message based on data provided by the user (column 4, lines 63-67; the advertiser submits proposed bid to the bidding agent)

Regarding to claim 50, Roth discloses the bid is based on at least one of: a buyer allocation rule for determining an allocation of a network resource; a buyer valuation rule for determining a value of the network resource, and a buyer strategy rule for determining a bid for a network resource based on the buyer allocation rule and the buyer valuation rule (column 4, lines 63-67; the bid is based on a buyer allocation rule for determining an allocation of a network resource in this case; the advertiser specifies a bid amount and type of viewers for displaying an ad).

Regarding to claim 51, Roth discloses the bid is based on a truthful best reply strategy (column 6, lines 33-38; the bidding agent evaluate bids based on the characteristics of the viewers).

Regarding to claim 52, Roth discloses the bid is base on a measurement of the network resource (column 10, lines 60-67; the sizes of the content).

Regarding to claim 53, Roth discloses the allocation rule is identical to the buyer allocation rule (column 5, lines 1-12).

Regarding to claim 54, Roth discloses the allocation rule includes one of: an English Auction allocation rule, a continuous bid-ask allocation rule, a progressive second price action allocation rule, and a hold option allocation rule (column 7, lines 25-33; an English Auction allocation rule in this case, selecting a highest bid within a pre-established time limits).

Regarding to claim 55, Roth discloses allocating includes: generating at least one command based on a resource control protocol for allocating the network resource (column 8, lines 15-20; Internet Protocol).

Regarding to claim 57, Roth discloses allocating includes generating at least one command for at least one device for controlling the network resource (column 4, lines 42-43; the advertising web server system 16 sends the appropriate advertisement from database 16A to the browser 11).

Regarding to claim 58, Roth discloses receiving a data message from a seller agent operating on a seller server, the data message associating a network resource with an offer to sell (column 9, lines 5-16).

Regarding to claim 59, Roth discloses transmitting a data message to the buyer agent including data based on at least one of: an available quantity of the network resource, an allocation of the network resource, a bid from the buyer agent, bid from a different buyer agent, an offer to sell from a seller agent operating on a seller server (column 9, lines 5-16; an available quantity of the network resource or an offer to sell from a seller agent operating on a seller server).

Regarding to claim 62, Roth discloses receiving a data message from the buyer agent associating an allocated network resource with a different buyer agent, and based on the data message, reallocating the allocated network resource to the different buyer agent (column 7, lines 25-33).

Regarding to claim 63, Roth discloses storing data based on at least one of: an available quantity of a network resource, an allocation of a network resource, a bid from a buyer agent, and an offer to sell from a seller agent operating on a seller server (column 9, lines 5-16).

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Regarding to claim 64, Roth discloses a system to allocate a network resource from a resource agent operating on a resource server, the system including:

a buyer server (figure 1 and column 6, lines 20-32; bid input server 18); and  
a buyer agent operating on the buyer server, the buyer agent capable of generating a bid for the network resource, transmitting a data message to the resource server, the data message associating a bid with the network resource (figure 1 and column 3, lines 50-65; the advertising web server system 16 receives bids from bidding agents 30A to 30Z; column 4, lines 7-15; the network resource is an advertising space on a web page), and receiving an allocation of the network resource from the resource agent (column 4, lines 42-43; the advertising web server system 16 sends the appropriate advertisement from database 16A to the browser 11).

Regarding to claim 65, Roth discloses the buyer agent is capable of generating a bid for a network resource includes at least one of: a bandwidth, a buffer space, and a processing time (column 4, lines 7-15; a buffer space in this case; the network resource is an advertising space on a web page).

Regarding to claim 66, Roth discloses the buyer agent is capable of generating a bid for a network resource based on at least one of: a buyer allocation rule for determining an allocation of a network resource; a buyer valuation rule for determining a value of the network resource, and a buyer strategy rule for determining a bid for a network resource based on the buyer allocation rule and the buyer valuation rule (column 4, lines 63-67; the bid is based on a buyer allocation rule for determining an

allocation of a network resource in this case; the advertiser specifies a bid amount and type of viewers for displaying an ad).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 56, 60, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (hereinafter Roth), U.S. Patent No. 6,285,987).

Regarding to claim 56, Roth does not disclose allocating includes generating at least one command based on one of SNMP and COPS for allocating the network resource. However, generating at least one command based on one of Simple Network Management Protocol (SNMP) and Common Open Policy Service Protocol (COPS) for allocating the network resource is well known in the art. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Roth's to include the feature above for the purpose of allocating the network resource using various different protocols.

Regarding to claims 60-61, Roth does not disclose transmitting a data message to the buyer agent notifying the buyer agent that a bid received from the buyer agent is less than a bid received from a different buyer agent; receiving a data message from the

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buyer agent associating an updated bid with the network resource. However, notifying the bidder about his bidding status, e.g. outbid and receiving an updated bid from the bidder regarding to the notification is well known in the art of participating in electronic auction. For example, Ebay auction usually sends the bidder the email message indicating that the bid submitted by the bidder is an outbid which is less than the bid from a different bidder, the bidder then may re-submit a new bid in order to win the item. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Roth's to include the feature above for the purpose of keeping the buyer agent inform about his bidding status in order to encourage the buyer agent to update his bid in case of the bidding status is outbid.

### ***Conclusion***

8. Claims 45-66 are rejected.

9. The prior arts made of record and not relied upon is considered pertinent to applicant's disclosure:

Faber et al. (US 6,519,570) disclose a system and method for conducting a time auction.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (703) 306-2901. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (703) 308-0505.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-1113.

11. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
C/o Technology Center 3600  
Washington, DC 20231

Or faxed to:

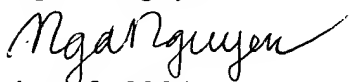
(703) 872-9326 (for formal communication intended for entry),

or

(703) 308-3691 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, Seventh Floor (Receptionist).

Nga B. Nguyen



June 9, 2004